

Remarks

Claims 1-45 were previously pending and stood rejected. Claims 25, 26, 35, and 36 have been objected to. Claims 1, 15, 20, 24, 33, 34, and 39 have been amended. Claim 25 has been canceled. Applicants assert that the claims are now in condition for allowance as set forth more fully below.

Interview Summary

The undersigned participated in a telephone interview with the Examiner on August 19, 2004. During the interview, objections to the claims were initially discussed to clarify that the objections require no action to be taken on the part of the Applicants. Additionally, deficiencies in the Bransen, Hibbard, and Tsoft references relative to subject matter of the present invention were discussed. Namely, it was discussed how none of the three references disclose prompting the user as to whether to employ a dial-up connection once the xDSL connection has failed. It was further discussed how none of the three references disclose a service provider monitoring for the dial-up connection and then issuing a trouble ticket requesting repair of the failed xDSL connection. It was agreed that amendments would be made to the claims to more clearly include this subject matter.

Objections

Claims 25, 26, 35, and 36 have been objected to due to claims 27 and 37 depending from dependent claims 25 and 35, respectively, while claims 26 and 36 depend from claims other than claims 25 and 35. Claim 25 has been canceled and claim 27 has been amended to depend from the same claim as claim 26 so the objection of claims 25 and 26 is now moot. Claims 35 and 36 have not been amended. However, based on the interview noted above, this objection will be corrected by renumbering the claims once the claims are allowed.

103 Rejections

Claims 1-11 and 13-45 stand rejected under 35 USC 103(a) as being unpatentable over Bransen (US Pat 6,314,512) in view of Hibbard (US Pat App 2001/0056503) and

further in view of the Tsoft publication. Claim 12 stands rejected under 35 USC 103(a) as being unpatentable over Bransen in view of Hibbard and further in view of the Tsoft and Engel publications. Applicants respectfully traverse these rejections.

Claims 1-14

The Office Action has rejected claim 1 by stating that Bransen discloses a method monitoring Internet access, detecting a failure, and notifying the end user. The Office Action further states that Hibbard discloses pinging a network to detect a failed connection and employing a back-up dial-up connection when the connection has failed. The Action further states that Tsoft teaches an xDSL primary connection and a dial-up connection as a back-up. It is stated that it would be obvious to combine these references to render claim 1 unpatentable.

Amended claim 1 recites, among other things, if no response has been received, displaying a message on the user computer indicating that xDSL is out of service and displaying a message prompting the user to select whether to connect to the network via a dial-up modem. Thus, the user is made aware of the back-up connection via dial-up and given the opportunity to select to make the dial-up connection once the xDSL connection has failed. Accordingly, the user will be able to reconnect via dial-up without having prior knowledge that the back-up via dial-up connection is available.

None of the cited references provide for prompting the user to select whether to connect via a dial-up connection once it has been detected that the xDSL connection has failed. Bransen notifies of a connection failure but provides for no back-up connection, so the user not only isn't given the option to select a back-up but has no back-up to select. Hibbard automatically connects via the back-up dial-up connection, as opposed to prompting an end user to select whether to initiate the back-up connection, when the Ethernet connection has failed to maintain a seamless connection for services such as virtual private networks. Accordingly, the user has not choice as to whether the back-up dial-up connection is implemented. Tsoft provides a back-up dial-up connection but provides no message to the user upon an xDSL failure and provides no message prompting the user to select whether the use the back-up once the xDSL has failed.

Accordingly, the user must have prior knowledge of the back-up dial-up option and must take the steps to activate it without any prompting.

Because none of these references provide for prompting the user to select whether to employ the dial-up connection upon xDSL failure, the combination of these references fails to render claim 1 obvious. To suggest that these references can be combined, and then a further modification be applied to prompt the user, would be to impermissibly apply hindsight based on a reading of the present application. Therefore, claim 1 is patentable over the cited combination for at least these reasons.

Dependent claims 2-14 depend from an allowable claim 1 and are also allowable for at least the same reasons.

Claims 15-23, 33-45

The Office Action rejected claims 15, 33, and 39 by stating that Bransen, Hibbard, and Tsoft together teach all of the elements. However, these claims recite, among other things, a message on the user computer indicating that xDSL service has failed and offering an option of employing dial-up modem service if no response has been received by prompting the user to select whether to use a dial-up modem connection. Thus, claims 15, 33, and 39 are allowable for at least the same reasons noted above for claim 1. Dependent claims 16-23, 32-38, and 40-45 depend from allowable claims 15, 33, and 39, respectively, and are also allowable for at least the same reasons.

Claims 24 and 26-32

The Office Action rejected claim 24 by stating that Bransen, Hibbard, and Tsoft together teach all of the elements. Amended claim 24 recites, among other things, monitoring by the service provider the connection via dial-up modem and determining the user's account information including whether the user is an xDSL service subscriber or customer and if the user is an xDSL service subscriber or customer, concluding by the service provider that xDSL service has failed and issuing by the service provider a trouble ticket requesting repair of the xDSL service. Thus, the service provider is aware of the xDSL failure without the end user making any contact with the service provider other than the dial-up connection.

None of the cited references disclose the service provider concluding that the xDSL has failed and issuing a trouble ticket requesting repair by monitoring for the dial-up connection from the end user. Again, Bransen is not concerned with back-up connections. Hibbard discloses that the network administrator is made aware of the connection failure upon the dial-up connection being made, but does not disclose that the service provider is monitoring the dial-up connection in order to conclude that xDSL has failed in order to issue a trouble ticket for repair. The network administrator must make contact with the service provider to request repair of the main connection. Tsoft discloses that the user can employ a back-up dial-up connection but is not concerned with the service provider monitoring the dial-up connections to conclude that the xDSL has failed and to issue a trouble ticket for repair. While the action states that a dial-up connection is only used when the xDSL service has failed, Tsoft discloses that the dial-up is used in other instances as well (e.g., when connecting from a remote location) such that the dial-up connection is not necessarily a result of an xDSL failure.

Since none of these references teach a service provider monitoring the dial-up connection for the purpose of detecting xDSL failure and issuing a trouble ticket for xDSL repair, the cited combination fails to render claim 24 obvious. To suggest that the combination of these references can be further modified to monitor for dial-ups in order to issue trouble tickets for repair requires impermissible hindsight based upon a reading of the present application. Therefore, claim 24 is patentable over the cited combination for at least these reasons.

Dependent claims 26-32 depend from an allowable claim 24 and are also allowable for at least the same reasons.

Conclusion

Applicants assert that the application including claims 1-24 and 26-45 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: August 23, 2004



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